

SAFE DRINKING WATER ACT

9-67. Drinking Water State Revolving Fund (DWSRF) Program

1. **AUTHORITY.** Pursuant to Sections 1419, 1420, and 1452 of the Safe Drinking Water Act (SDWA), as amended, the authority to:

- a. Allot funds among the States, Indian Tribes, Alaskan Native Villages, governments of the Virgin Islands, the Northern Mariana Islands, American Samoa and Guam, the Trust Territory of the Pacific Islands, and the District of Columbia for drinking water infrastructure needs, as authorized by Section 1452.
- b. Approve capitalization grant agreements to States and grants to Indian Tribes, Alaskan Native Villages, and the State of Alaska for the benefit of Native Villages, governments or public water systems of the Virgin Islands, the Northern Mariana Islands, American Samoa and Guam, the Trust Territory of the Pacific Islands, and to the District of Columbia for drinking water infrastructure needs, as authorized by Section 1452.
- c. Make determinations annually on a fiscal year basis to withhold a certain percentage of each capitalization grant, in accordance with Sections 1420(a), 1420(c), and 1452(a)(1)(G)(i), made to a State if it has not:
  1. developed and is implementing a program to ensure demonstration of technical, managerial, and financial capacity by new community and nontransient, noncommunity water systems; and
  2. developed and is implementing a strategy to assist public water systems in acquiring and maintaining the technical, managerial, and financial capacity to comply with the Act.
- d. Concur with determinations made under 1(c) and 1(e).
- e. Make determinations to withhold 20% of a State's capitalization grant, in accordance with Section 1419(b) and Section 1452(a)(1)(G)(ii), made to a State if it has not adopted and is implementing a program for the certification of operators of community and nontransient, noncommunity public water systems that meets the requirements of guidelines published pursuant to Section 1419(a) or meets the requirements of Section 1419(c).
- f. Reallot unobligated and withheld funds in accordance with the requirements of Section 1452.

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**2. TO WHOM DELEGATED.**

- a. Authorities 1(a), 1(d), and 1(f) are delegated to the Assistant Administrator for Water (OW).
- b. Authorities 1(b), 1(c), and 1(e) are delegated to Regional Administrators.

**3. LIMITATIONS.**

- a. To achieve national consistency in withholding decisions under 1(c) each Regional Administrator is to make withholding decisions, in accordance with the guidance published under Sections 1420(d)(4) and 1452(g)(3) and must seek concurrence from the Assistant Administrator for OW on:
  - 1. the decision on the first State new systems program submitted under Section 1420(a) in each region, and all decisions to withhold funds; and
  - 2. the decision on the first capacity development strategy submitted under Section 1420(c) in each region, and all decisions to withhold funds.
- b. To achieve national consistency in withholding decisions under 1(e), each Regional Administrator is to make withholding decisions, in accordance with the guidance published under Section 1419(a) and 1452(g)(3) and must seek concurrence from the Assistant Administrator for OW on:
  - 1. the decision on one State operator certification program submitted under Section 1419(b) in each Region, and all decisions to withhold funds;
  - 2. the decision on any State operator certification program submitted under 1419(c) (programs submitted as “equivalent”) in each Region, and all decisions to withhold funds;
- c. Withholding under 1(c) and 1(e) do not apply to Native American Tribes, the Virgin Islands, the Northern Mariana Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.
- d. For concurrences under 1(b), the Regional Administrator shall obtain the concurrence of the Director of the Office of Ground Water and Drinking Water for the following:

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1. in those cases where a state capitalization grant applicant requests an exception to cash draw procedures related to aggressive leveraging proposals or other cases which would involve the draw of cash at a more accelerated rate than specified in the DWSRF Guidelines or regulations;
2. for approval of any capitalization grants where the DWSRF will be used to generate payments for state match bonds. However, this concurrence is not required if concurrence was given for such use on a previous capitalization grant and there are no changes to the structure of the program.

**4. REDELEGATION AUTHORITY.**

The authority delegated to the Regional Administrator under 1(c) and 1(e) is being redelegated to the Director of the Water Protection Division, or equivalent, and may not be redelegated further.

**5. ADDITIONAL REFERENCES**

- a. 40 CFR Parts 30, 31, 32, 141 and 142
- b. EPA Delegation 1-14, Assistance Agreements
- c. EPA Assistance Administration Manual
- d. EPA Guidance on Implementing the Capacity Development Provisions of the Safe Drinking Water Act Amendments of 1996
- e. EPA Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems
- f. EPA DWSRF Program Guidelines and additional regulations and guidance for the Program

Date: 4/22/08

/s/ Donald S. Welsh  
Donald S. Welsh  
Regional Administrator